

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT C. DAVIS, SR., Administrator of the
ESTATE OF ESTHER DAVIS, Deceased,

Plaintiff,

v.

SOLARIS OILFIELD SITE SERVICES
OPERATING, LLC, a Foreign Entity; and MARC
GOMEZ, an Individual,

Defendants.

Case No.

**DEFENDANTS' PETITION FOR
REMOVAL**

Filed on behalf of Defendants:

**SOLARIS OILFIELD SITE SERVICES
OPERATING, LLC, a Foreign Entity;
and MARC GOMEZ, an Individual**

Counsel of Record for this Party:

Michael A. Karaffa, Esquire
PA I.D. #34521

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN, P.C.**

Union Trust Building
501 Grant Street, Suite 700
Pittsburgh, PA 15219
(412) 803-1140

JURY TRIAL DEMANDED

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ROBERT C. DAVIS, SR., Administrator of
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JURY TRIAL DEMANDED

Electronically filed

DEFENDANTS' PETITION FOR REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §'s 1332 and 1441, Defendants Solaris Oilfield Site Services Operating, LLC, a Foreign Entity and Marc Gomez, an Individual, by and through their attorneys, Marshall Dennehey Warner Coleman & Goggin, P.C. and Michael A. Karaffa, Esquire,, hereby file this Petition for Removal to remove to the United States District Court for the Western District of Pennsylvania, the State Court action described below:

1. This wrongful death action arises from an automobile accident which occurred on or about September 6, 2018 in Canonsburg, Washington County, Pennsylvania.
2. On or about October 25, 2018, the Plaintiff Robert C. Davis, Sr., Administrator of the Estate Esther Davis, commenced an action by Writ of Summons in the Court of Common Pleas of Washington County at docket no. C-63-CV-2018-5996. (*See Praecipe for Writ of Summons, a true and correct copy attached hereto as Exhibit "A"*).

3. On or about May 3, 2019, Defendants received Plaintiff's Complaint, which was then filed in the Court of Common Pleas of Washington County on or about May 6. (*See* Complaint, a true and correct copy attached hereto as Exhibit "B").

4. In the Complaint, Plaintiff raises claims for wrongful death, negligent entrustment, and survival against Defendant Solaris Oilfield Site Services Operating, LLC and claims for wrongful death and survival against Defendant Marc Gomez (*See* Ex. B at Counts I – V).

5. Pursuant to Pennsylvania Rule of Civil Procedure 401, "[I]f an action is commenced by Writ of Summons and a Complaint is thereafter filed, the Plaintiff instead of reissuing the Writ may treat the Complaint as alternative original process and as the equivalent for all purposes of a reissued Writ, reissued as the date of the filing of the Complaint." Pa.R.C.P. 401 (b)(5).

6. Accordingly, the Complaint was served on Defendants on or about May 3, 2019.

7. The following pleadings have been filed in this action to date:

- a. Praecipe for Writ of Summons – Civil Action;
- b. Writ of Summons;
- c. Appearance of Michael A. Karaffa, Esquire on behalf of Defendants;
- d. Complaint.

(*See* Court of Common Pleas of Washington County, Pennsylvania docket, a true and correct copy attached hereto as Exhibit "C").

8. True and correct copies of the Court papers listed above, excluding the Praecipe for Writ of Summons, which is attached to as Exhibit "A" and the Complaint, which is attached hereto as Exhibit "B", are collectively attached hereto as Exhibit "D".

JURISDICTION

9. This action is one over which the Honorable Court has original jurisdiction pursuant to the provisions of 28 U.S.C. § 1332.

10. Complete diversity of citizenship exists between the parties:

a. It is Defendants' understanding that, based upon the averments in the Complaint, Plaintiff, Robert C. Davis, is and was at the time of commencement of this action, an individual residing in Canonsburg, Washington County, Pennsylvania. (*See* Ex. B at ¶ 1).

b. Defendant Solaris Oilfield Site Services Operating, LLC is and was at the time of the commencement of this action incorporated under the laws of the State of Texas, with its principal place of business in Houston, Texas.

c. Defendant Marc Gomez is and as at the time of the commencement of this action an individual residing in San Antonio, Texas.

11. Based upon the nature of Plaintiff's claims, Defendants assert that the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

12. Therefore, the amount in controversy exclusive of interest and costs, meets or exceeds the jurisdictional requirements for diversity jurisdiction.

13. Accordingly, this civil action is one over which this Honorable Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and which may be removed to this Honorable Court by Defendant pursuant to 28 U.S.C. § 1441.

TIMELINESS

14. This Petition for Removal was filed within thirty (30) days of the date Defendants received Plaintiff's Complaint.

15. Thus, this Petition for Removal is timely under 28 U.S.C. §1446 (b)(1).

VENUE AND OTHER MATTERS

16. The Court of Common Pleas of Washington County, Pennsylvania is located within the jurisdiction of the United States District Court for the Western District of Pennsylvania. 28 U.S.C. § 118(c).

17. Accordingly, this Honorable Court is embracing the place where such action is pending and venue is proper. See 28 U.S.C. §'s 118(c) and 1441(a).

18. Promptly after filing this Petition for Removal, Defendant will provide written notice of this Petition for Removal to all counsel and will file a written notice with the Court of Common Pleas of Washington County, Pennsylvania, as required by 28 U.S.C. §1446(d). (See Notice of Filing of Petition for Removal, a true and correct copy attached hereto as Exhibit "E").

WHEREFORE, Defendants Solaris Oilfield Site Services Operating, LLC and Marc Gomez. hereby remove to this Honorable Court the above-captioned action, now pending in the Court of Common Pleas of Washington County, Pennsylvania, and request that this action be placed on the docket for this Honorable Court for further proceedings as though this action had originally been instituted in this Honorable Court.

Respectfully submitted,

Dated: May 28, 2019

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN



Michael A. Karaffa, Esquire

PA. I.D. No. 34521

makaraffa@mdwecg.com

501 Grant Street

Union Trust Building, Floor 7

Pittsburgh, PA 15219

Phone: (412) 803-1140

Fax: (412) 803-1188

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing a true and correct copy of the foregoing **Defendants' Petition for Removal**, was served upon the following counsel of record via email and U.S. mail, postage pre-paid: 28th day of May, 2019:

Gary J. Ogg, Esquire
David K. Houck, Esquire
Eve M. Elsen, Esquire
Ogg, Murphy & Perkoskey, PC
245 Fort Pitt Boulevard
Pittsburgh, PA 15222
Counsel for Plaintiff



Michael A. Karaffa, Esquire
PA. I.D. No. 34521
makaraffa@mdwecg.com
501 Grant Street
Union Trust Building, Floor 7
Pittsburgh, PA 15219
Phone: (412) 803-1140
Fax: (412) 803-1188

Counsel for Defendants